



*Ron Snow*

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RE: **Public San Mateo County Tree Ordinance - 06-13-24**

Thursday, September 5, 2024

Mr. Bharat Singh - San Mateo County [bsingh@smcgov.org](mailto:bsingh@smcgov.org)  
Members of the Tree Ordinances Steering Committee

Dear Tree Ordinances Steering Committee and Mr. Singh

I am providing my review of the Public Draft of the County Tree Ordinance (6/13/24). I am glad that County is finally taking steps to address the many shortcomings of the past tree ordinance. It has not protected our tree canopy in the county. It has allowed developers to destroy so many magnificent trees and caused neighborhoods to look blighted.

There are some important concepts missing in the draft tree ordinance:

- 1. Tree Health Maintenance fund:** I would like to see a portion of the monies collected through the Tree Ordinance (permits, fees, fines, etc) should be allocated to a Tree Health Maintenance fund. A new fund that could be made available for fixed income and low income property owners that need to maintain the trees on their property. Tree maintenance is often not affordable to these citizens due to their financial circumstances and this results in unhealthy trees and decayed trees that eventually will need removal.

This new fund would allow property owners a means for maintaining tree health. It could be applied to cover costs of pruning and planting replacement trees.

- 2. High Cost for neighbors to appeal a tree removal (or pruning) permit:** The cost of filing an appeal to a tree permit is excessive. For many in the county, this appeal fee is so high that it is unaffordable. A developer, with hundreds of thousands of dollars, even millions, in project funds, can simply right-off the cost of the tree permit with out any impact on his costs; however, for the neighbors trying to protect the neighborhood canopy and preserve the ambience of the area have to pay a high fee and often it is not affordable. Neighbors, regardless of income and financial status, should be able to appeal. This appeal should be free (or extremely low) for it to be an effective means for County to take action around the commitment to preserve the county tree canopy. Many people in neighborhoods with beautiful trees, are older and on fixed incomes. Similarly, lower income neighborhoods are losing their trees to developers but don't have the extra money needed to appeal tree removals.

Generally, costs to save or preserve trees should be low or free. Developers have large budgets and can easily cover higher tree removal permits that would allow free appeals. Like wise, non-developers needing to address an individual tree's failure, should not have to pay a the developers.

- 3. Require Notice for virtually all Tree Removal circumstances:** Public notice (see section 99,010 1.a) should still be required in other circumstances, even if after that fact. This would be the case in emergency removals, undermined tree removal/pruning, and even tree removals of trees by County, including trees in county parks. Many of these situations require County staff and directors to take 'after the fact' actions, so public notice would provide the neighbors an already established process to provide feedback, concerns, and other important information that the Director of Planning/Building should review in making decisions.

Comments on particular sections of the draft ordinance:

**99,002 - Definitions:**

SubSection 18. Heritage Tree) There should be an automatic protection and assignment of 'Heritage Tree' for trees that meet a given criteria: Instead of requiring an application process for most heritage trees, the criteria that the Board of Supervisors would use should be stated and that criteria be the definition that automatically applies. These trees need protection but to require each and every of the thousands of trees in County to have the Board of Supervisors designate them as such, indicates this is not well thought out. It requires thousands and thousands of applications to protect trees. Great if the goal was to create a bureaucratic nightmare, but not good if the goal is to protect the county's canopy and reduce the number of trees that are being lost.

**99,007 - Permit Exceptions:**

SubSection 4) In residential urban areas, this subsection doesn't seem to make sense, other than giving carte blanche to removing those identified trees. In other words virtually all trees on a property are within 100 ft or 30 ft of the road. The properties just are not that big. Additionally, I would like to have the majestic Bay Laurel that are a major part of the ambience of many neighborhoods be excluded from this section — they should require a permit for removal.

**99,013 - Expedited Tree Removal:**

SubSection 1) Bay Laurel trees are listed. These are in Flood Park, county's nature park. Flood Park only has a few heritage trees left, as many have been lost to poor maintenance or purposefully cut down. The few heritage trees that remain are Bay Laurel. I would hope that large bay laurel trees are not included in this subsection.

SubSection 3) Public Notice needs to be required as it is imperative that the Director of Planning and Building have the information that only local neighbors can provide. Without this input, the Director would lack the ability to make a fair and informed decision.

SubSection 5) Expiration seems important as time and circumstance may have significantly evolved in a year's time. For instance other trees on/next to property may have been removed or pruned so as to negate the urgency to remove even more canopy.

**99,010 - Processing of Protected Tree Permits:**

SubSection 1.a) Limiting notification of protected trees to only 100 feet of tree is ridiculous. These trees are significant parts of the neighborhood canopy and ambience. They play a major role in the wild life and air quality and heat deflection that is needed by all. Notice should be extended to at least 600 feet in urban areas and even more in rural areas where properties are much larger — maybe in rural and open areas, the notice should at least include a minimum of 3 properties in each direction of the road, as well as the properties in front and in back — a total of 8 properties in these open areas.

NOTE: It is strange that the draft requires only 100 feet notice to remove a tree, but 300 feet notice to protect a tree via the Heritage Tree Designation (see section 99,022). Notice needs to be at least 600 feet as requested above.

SubSection 1.b) The notice period should be 2 weeks (14 days) so as to allow time for residents to respond. The draft says 10 calendar days — it would be better to state ‘work days’ as often neighbors are away for weekends and long holidays. A longer time is needed.

**99,022 - Application and Designation of Heritage Trees:**

There should be an automatic protection and assignment of ‘Heritage Tree’ for trees that meet the a given criteria. These trees need protection but to require the board of supervisors to designate each and every of the thousands of trees in County indicates this is not well thought out.

I agree that being able to designate a tree as Heritage is needed in order to protect those important trees that would not be automatically included in a standard quantified definition.

**99,023 - Cease and Desist: Unlawful Tree Removal:**

Just as in lawful tree removal permits, the remediation steps for unlawful removal should require a Notice step - very similar to the Notice process for tree removal permits (see 99,010). The Notice then should be posted on the location to notify the local public. Locals should have a voice in the matter and the Director of Planning and Building should be required to review all public comment and consider that feedback when forming a mitigation plan.

**99,024 - Penalties For Infraction:**

It seems crazy to allow a second and third violation. It would seem that the majority of repeated violations could be solved by simply raising the violation fee; however, in the case of developers, with huge development funds, a second and subsequent violations don’t impact the developer. They can weigh the costs associated with conforming to the goals of the Tree Ordinance against just cutting down the trees and paying the fine. They unlawfully cut down trees and it takes zero time and no delays.

Other remedies could include prohibiting any additional tree removals, including the withdrawal of previously permitted removals.

I am glad that the Tree Ordinance is nearing finalization. We need to protect our trees, encourage growing the tree canopy in County, and recovering from past over cutting. The tree ordinance needs to be affordable to those persons that are trying to preserve the health of trees and challenge the removal of trees.

Sincerely,

Ronald G. Snow

**From:** [Janet Davis](#)  
**To:** [Planning Commission](#)  
**Subject:** Planning Meeting Sept. 11. Draft Tree Ordinance Comments  
**Date:** Sunday, September 8, 2024 1:16:56 PM  
**Attachments:** [240716 draft heritage tree protection.pdf](#)

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A draft was sent out to a few people in early July. Nobody I know got a copy, including my arborist! I spent hours going over the draft and writing a response, which is attached, including my detailed analysis. Apparently there was an anonymous Committee, the county arborist and 2 tree companies that dreamed up this virtually incomprehensible document. There was apparently no follow up/response to anyone that responded with comments. If this is enacted as it stands it is unlikely to be enforceable. It is unduly onerous and expensive for a property owner that truly cares for their trees, and some of the provisions might actually give encouragement to unscrupulous developers to destroy trees. It is too long and has too many cross references, but not enough citations to State standards that are quoted. Given the expertise needed to evaluate some of the criteria, the Planning Dept. and the Planning Director are emphatically not qualified to act. A better option might be for the Resource Management Dept. to handle this.

Based on my past experience there have been some highly questionable arborist reports that I have seen accompanying development/subdivision projects. The document sent out for review seems to be in a very preliminary form and wonder whether it has been sent to ANY Bay Area Tree companies apart from the 2 on the "Task Force." My arborist who is truly dedicated to, and expert in, caring for and preserving large trees, had not seen it.

The county has been spectacularly incompetent in enforcing tree protection, and many environmental provisions, and writing up an ordinance is absolutely no remedy for lack of enforcement, especially with respect to major developers, and most especially in sensitive habitats like riparian corridors.

I was totally underwhelmed by the Draft document, and it seems to reveal that the authors are not familiar with many areas and diverse environments of this county. I would encourage the authors to contact the Grass Roots Ecology who seem to be more cognizant of the issues regarding native trees and their care.

## DRAFT PROTECTED TREE ORDINANCE COMMENTS

### General

- The ordinance is very long and too complicated for the average person to comprehend.
- The grammar in some of provisions makes the meaning unclear.
- There are so many cross references some of which are not included as appendices
- Many people would not know how to multiply the diameter by pi (3.14) to figure out the circumference. Why not use the circumference in all provisions?
- Too much authority is given to the Planning Director who or may not have the required education/knowledge/practical experience to make the judgments. A better option would be to have the Resource Management Dept. make decisions
- This ordinance does little to stop developers removing trees, and in fact makes it easier for them
- There should be a provision as to time of year that work is done to protect nesting birds.
- Protected trees often harbor many species and a provision should be included to protect wildlife in those trees.
- This draft ordinance requires an applicant to cross reference multiple times to figure out what is required.
- One area that needs very special protection is riparian sites. Most of the trees along San Francisquito creek have been removed: many totally illegally, which has exacerbated bank collapse and flooding. This has also virtually eliminated all wildlife that used to be abundant.
- The heritage tree provisions have been drastically changed and the new provisions **penalize** an owner instead of rewarding them for classifying a tree as heritage to protect it. Furthermore there is no viable way presently to make the classification.
- Has this draft been sent to local Arborist companies? If not, why not?
- The proposed procedure is **so complicated and expensive** that it will be ignored and given the past history of lack of enforcement, trees may well be more at risk that previously.
- **It is all very well to have an ordinance, but numerous times I have taken pictures of illegal tree removal: complete with address and offending company, and not only has there been no enforcement, but the complaint was ignored or marked invalid. The County has to make some commitment that**
- **(a) they have someone in Planning with the requisite skill to know about trees and the environment – which does not exist presently;**
- **(b) the county will not just rubber stamp a paid arborist's assertion that a tree is damaged or is a threat;**
- **(c) Planning dept. staff will NOT approve impermeable surfaces such as concrete within a protected tree's canopy even if that tree is on adjacent property,**
- **(d) final decisions will NOT be delegated to counter staff as has frequently occurred.**

### CHAPTER 1 INTENT AND PURPOSE

#### Section 99.000

*Many areas of the county are not exactly "urbanized," yet trees are being decimated by developers. In urbanized areas trees also moderate the "heat island" effect. This is especially important given the many high rise developments.*

***Para. 2** I would delete the word "proper" since any astute developer would argue that his site is not a "proper" location. Also the word "exotic" should be changed to non indigenous. Given the amount of development and impermeable surface in some areas, many native trees may not survive. Non native trees such as London Plane are planted all over the county, especially along roads, to provide shade and greenery since they do not usually uproot pavements. Many*

homes do not have room for native trees, or they are deciduous, such as the Western Redbud which does not provide garden privacy.

## **CHAPTER 2. DEFINITIONS**

### **Section 99.002**

- (1) Arborist Report: *Some arborists' reports that I have read in the past have been highly questionable, and often heavily biased in favor of development. It is to be hoped that the Planning Dept. will keep a list of such arborists, and when there is a question, hire an unbiased arborists to evaluate any suspicious report from a developer. Is the "County Arborist" on staff or is this a contracted firm that has other clients?*
- (2)(a) Building envelope: *Grammatically incomprehensible*
- (2)(b) & (c) *Unless it is impossible, any structure should be redesigned to accommodate the trees rather than eliminating the trees*
- (3) Building Footprint:
- (4) Canopy: *This has been totally ignored for the last 40 years*
- (5) Arborist: *There is no guarantee that any Planning Director has the knowledge to approve such a person.*
- (6) Community of Trees: *Why does it have to be 5? Some trees need a male and female tree to produce seeds/fruit*
- (7) County: *Who are included as "authorized representatives?"*
- (8) Dead Tree: *Same comment about any Planning Director*
- (9) Development: *Long run on sentence. Also needs to apply to riparian areas*
- (10) Department:
- (12) Diameter: *need to substitute circumference or define way to calculate circumference by multiplying by 3.14.*
- (13) Director: *This could mean any counter staff since it allows delegation, which is a total recipe for disaster*
- (14) Drip Line: *This provision is routinely ignored. There needs also to be a provision to restrict landscaping within the dripline of oaks. Frequently plants that need a lot of water are put around the base of oak trees that cause root rot resulting in a dead tree.*
- (15) Effectively remove:
  - (a) *that includes chain sawing the main root of an oak in order to build on top of it which the Planning Dept. approved, or concreting a cavity. Everything noted in section 15 has been totally ignored for the last several decades.*
- (16) Emergency
- (17) Exotic Tree
- (18) Heritage Tree: *It is totally ridiculous to have to have the BOS specifically designate specific heritage tree. Any native tree of a certain age and size should be a "heritage tree." The proposed designation method penalizes people wishing to preserve their tree.*
- (19) Hazard Tree: *Many eucalyptus trees in the county are, or should be considered, a hazard tree. One such tree killed a young man along Alpine Road recently. There are many Eucalyptus trees along the San Francisquito Creek that may not be "hazardous" at the moment but they suck up all the water from the creek, depriving riparian trees of water. Another hazard is fire danger since the oil in these trees makes them highly flammable.*
- (21) Multi trunk tree: *Many redwoods have extensive "suckers" around the base that form infant trees so that when the main one dies the young ones take its place.*
- (25) "Pruning" *Sometimes this is necessary for the life of the tree. A tree might grow too much on one side because of lack of exposure to light. At this point the tree becomes unbalanced and a skilled arborist needs to lighten the load on one side. Problems occur when a neighbor decides to trim back a tree to the fence line. This situation should be addressed.*
- (26) Public property- *self evident*
- (27) Public Nuisance: *A Planning Director is not competent to decide this issue*

(29) What about private roads or alleyways?

(30) Remove : Self evident

(33) & (36) Severe Pruning: *The county itself is responsible for some of this. **Example:** They foolishly located a solar powered radar sign under a beautiful old oak on Alpine Road (when there were adequate other sunlit locations) and then because the sign would not function, instead of relocating the sign, they cut the tree in half!*

*There also need to be some control over PGE since they frequently hack trees to death, or they leave a tree that is likely to fail where judicious trimming would save the tree and the utility lines.*

(38) Tree Protection Zone: *grammatically incomprehensible. Interesting that in this section circumference is stated. Also the fencing I have observed with respect to protected zones has been totally inadequate. This needs better definition. Also, many times during construction extremely heavy equipment is located in the immediate vicinity of the tree trunk.*

(39) Tree Risk Rating: *Need web address cite for reference*

(40) Tree Value Standard: *Need web site for reference*

(41) Trunk

(42) Trunk Flare

(43) Urban area: *Many so-called urban areas as defined in the General Plan are not in fact in any way "urban." This definition needs replacing.*

### **CHAPTER3: APPLICABILITY AND EXEMPTIONS**

#### **99.003 Applicability**

#### **99.005 Limitations of Ordinance**

(1) *This section **does** show circumference*

(2) *Alder is missing and this tree is very important in the riparian corridors.*

*It would be a good idea to check with Grassroots Ecology since it seems that many indigenous trees are missing from this list.*

(5) *Community of trees (cross reference to 99.002)*

(6) *Tree Designated for Carbon sequestration: How does this happen? Some explanation needed here.*

#### **99.006.1, 2 & 3 Application in Bayside Review Districts, RM/TPZ Districts & RM/CZ & RM/CZ Districts**

*Need to specify circumference*

*Requires cross referencing to 99.007*

*As to Emerald Lake Hills etc. who is going to climb a large tree to figure out if a branch to be pruned is 19 inches in circumference?*

(1) *Why is no permit required outside of a State Scenic Corridor? The second paragraph states that a permit **MAY** be required if the tree is 55 inches or more in circumference. Why is this to be allowed without a permit?*

*In one section the protected tree has to be 54 inches in circumference and in another 55 inches in circumference. This makes no sense.*

#### **99.007 Exceptions to Requirement for Permit**

(1) *Timber harvesting*

(2) *Emergency: Again determination is to be made by the Director of Planning who is not necessarily equipped to understand the issues and it requires a cross reference to 99.021.*

(3) *Removal/Pruning for forest health as approved by the Coastal Commission. Does this require cross reference as to procedure?*

(4) *Tree Removal/Pruning for fire risk: Here is the list of trees for which no permit is required. It is redundant to state "within 30 feet of a private or public road necessary for emergency evacuations" since all roads would be necessary during a disaster.*

(5) *Tree Removal to provide defensible space for a legally permitted structure: This provision is exactly what is concerning Portola Valley residents since it pits one neighbor against another*

*because one resident could force the demolition of a tree on a neighboring property. This needs rethinking.*

(6) Removal/Pruning in County parks, rights of way or other county property: *This should not be an exception. The Parks and Public Works Depts. are not tree experts and have often made really bad decisions such as the chopping of the oak tree on Alpine Road when they placed a solar powered radar sign in its shade, as well as the elimination of many trees at Flood Park.*

(7) Removal by PUC: *The PUC at least has an arborist and an environmental person on staff.*

(8) Removal of a dead tree: *This is not always the best solution since a dead tree (snag) provides habitat for several species, providing that it is on a fairly rural site.*

#### **CHAPTER 4. PERMIT REQUIREMENTS**

(1) Getting a Protected Tree Permit: *Once again cross referencing required to 99.007 and 99.013. This does not make sense to me since, as worded, this would require the county to get a permit from itself for removing a tree from its own right of way along a road. It also seems to contradict the provisions that allow PGE & PUC to remove trees. FN1 also adds to confusion since this might require the Dept. of Public Works to get an encroachment permit from itself!*

(2)(a) Pruning: *Cross reference to Ch.1 Definitions 99.02(25)*

(2)(b) Outside Coastal Zone: *Why restrict to "urban" areas as defined by the General Plan. A lot of areas within the county might be classified as "urban" but are actually semi-rural and the trees are extremely important in areas where there is a hillside or creek, or where there is a geological hazard.*

(2)(c) Pruning of Heritage Trees: *Typo "Trees" is plural and should be singular*

(3) Another cross reference to 99.006 plus typo: *eliminate the "and."*

(4) Written Description of Pruning: *Requires cross reference to ANSI standards and no cite given*

(5) Tree Plan for Subdivisions: *Requires cross reference to 99.0014 and additional paperwork. When damage to building, landscape etc. an architect report required. Yet more paperwork and expense that will cause more people to do illegal work.*

#### **SECTION 99.009 PROTECTED TREE PERMIT APPLICATION REQUIREMENTS**

**Applications for Protected Tree Removal or Protected Tree Pruning shall include the following:**

(1) A completed tree removal or tree pruning application form provided by the Department, signed by the property owner required. *(Which dept.? "Planning" has been removed. Is there going to be a Tree Dept.?)*

(2) An arborist report, consistent with this ordinance and its companion document *(What is this companion document?)*

(3) Photographs of the tree(s). *In some instances the surrounding environment might be relevant as would any information on resident birds or other species.*

(4) For Pruning Permits: *It would seem obvious that an Arborist should prepare the report and there should be no need to delay the process by asking whether or not the Planning Director should request it.*

(5) For Subdivisions: *More cross referencing to 99.014*

(6) Requirement for an Architect's report. *This would not be necessary if more care was taken when granting the original building permit. A prime example of what should never have been approved is 2010 Gordon Ave, Menlo Park where an excessively large 2 story home very recently replaced a small house, and was built right next to a huge oak that extends immediately over the chimney and covers the drip line.*

(7) Required Tree Replacement Plan *Another cross reference to 99.012 "Required Tree Replacement Plan"*

(8) Any other information required by the Planning Director. *????*

(9) A fee as adopted by the BOS. *(What exorbitant fee is being proposed in addition to all the costs so far accrued?)*



Sections 99.009, 99.010, 99.011 and 99.012 are out of order

### **SECTION 99.013 EXPEDITED TREE REMOVAL PERMIT REQUIREMENTS**

(1) Qualifying trees:

(a)(e)(j) *What is the spp? Is this short for species?*

Nobody is going to get permits of any sort to remove some of these trees, especially privet! Plus there appears to be no definition of what size of tree in this section. There is a vast difference between a sapling and a 50 ft. high tree. Where is the cross reference to this?

The quota requirements need yet another cross reference.

(2) **Application Requirements:**

(a) A complete tree removal application form signed by property owner. (*Where is this form? Is it to be appended to the 33 pages*)

(b) Photographs

(c) Supplemental documentation (*such as? To be provided at the whim of the Planning Director*)

(d) Fee approved by BOS. *For some of these trees such as eucalyptus and Bay this is ridiculous. The County has been trying to remove these trees to mitigate fire hazards, and for the last few years there was no requirement to get any permits.*

(3) **Action on Permit:** Staff will review and inform applicant if further information required.

*("Staff" is not defined and many "staff" I have experienced in the Planning Dept. are completely unqualified to assess anything about trees. There needs to be an arborist on staff and additional **qualified** environmental personnel capable of understanding the situation. This does not exist currently and it is ill advised to have a complicated ordinance when the dept. lacks qualified staff to administer it. A better reviewer would be the County Resource Management Dept.*

(4) **Replacement Planting** (*This is extremely vague, especially as to size. It is listed under Expedited Removal but it is not clear if this applies to the "nuisance" trees in Section (1)*)

### **SECTION 99.010. PROCESSING OF PROTECTED TREE PERMITS**

(1)(a) **Notice of Application:** (*100 ft. is way too limited with respect to many trees since it only applies to immediate neighbors. "All other interested parties" – how determined since no one has knowledge until **or if** a notice is posted after the application is made?*)

(1)(b) Posting Notice Reading (a) and (b) together this makes no sense: *the posting is required **after** the application is received by Planning, yet the applicant has to swear they have posted the request when they submit the application. In practice this notice provision is often ignored or the posting is not easily visible.*

(2) **Application Review:** *So this is now a **unilateral decision** by the Planning Director, without a hearing of any kind?*

(3) *Same comment as for (2)*

(4) **Review Criteria/Required Findings:**

(a) *Another cross reference to 99.011*

(b) *More cross referencing to 99.007 (which subsection?) and 99.011. (which subsection?) Why would development be allowed right by a trunk flare*

(4) **Review Criteria**

*Another cross reference to 99.011.*

(a) *Another cross ref. to 99.007 and 99.011.*

(b) *Another cross ref. to 99.007 and 99.011. Does not expand on why the tree "cannot be spared" because the flare is close to the proposed building. This just encourages replacement of small houses with megamansions.*

(c) *There is no expansion on what constitutes "restricted access" Again this encourages megamansions. It is unclear as to what is meant by "landslide, repairs, etc." Putting protection measures in subdivision map conditions is totally useless unless those conditions are enforced. This has not been the case with respect to several such subdivisions in Stanford Weekend Acres.*

(d) Scenic Corridors. *This provision is way too broad. 100 ft. is insufficient and “substantially detract” is way too vague. Is this yet another **unilateral decision** for the Planning Director, whether or not that person has any qualifications to decide? Does the Planning Commission have any input? As to waterways this has been ignored for decades and continues to be ignored. It is asking for trouble to permit selective clearing to allow display of public views. It is **especially objectionable** to permit clear cutting to open important public views or create a vista point.*

(e) **Sensitive Habitats:**

*The county has routinely turned a blind eye to illegal tree removal along San Francisquito creek, also granted permits, and allowed exotic plantings and landscaping into the creek channel at several locations to the detriment of the canopy and the environment.*

(f) **Solar Shade Control:**

*Where is the reference cite to the California Solar Shade Control Act and what does it require? Does this mean that someone can install solar panels and a neighbor has to remove a protected tree. This makes no sense*

**45?? Notice of Decision: (typo)**

*Again the Director of Planning makes a **unilateral decision**.*

**SECTION 99.011 REQUIRED FINDINGS FOR PERMIT APPROVAL**

*Again the Director of Planning makes a **unilateral decision** based on “Findings”*

**(1) Tree removal without development or in Scenic Corridors two or more findings to be made:**

(a) Tree in severe decline that cannot be remediated according to arborist (*Some arborists can be influenced to emphasize this decline*)

(b) Tree is a hazard/nuisance that cannot be remediated (*no requirement for arborist?*)

(c) Tree restricts economic development by reducing building envelope by 25% or creates hardship for property owner and they have demonstrated to the Planning Director that there is no reasonable alternative or that alternative would effectively authorize permanent structures not compatible with other developments in the vicinity. (*Depending on the size of the parcel, 25% could be a huge amount. Plus the last sentence could have a domino effect of parcel after parcel being denuded by developers as has been happening in parts of the county. Also this is yet another unilateral decision by the Planning Director*)

(d) No more than 50% of the property’s canopy would be lost. (*This is an excessive amount that should not be permitted. FN2 is less than clear but seems to state that this does not allow swimming pools and impermeable surfaces to count. ADUs and covered parking can be. This provision does not seem to help keep the tree canopy. The draft **excludes** an important factor regarding adverse effects on erosion, soil retention, water retention, and diversion or increased flow of surface water. This would seem to contradict provisions regarding ground water diversion, which is extremely important. It also eliminates the provision regarding trees in a sensitive habitat.*)

**SECTION 99.012 REQUIRED REPLACEMENT PLANTING**

**(1) Number and species of replacement tree(s) required:** One or more

(a) Table 1 (*Caliper is not defined*) lists requirements by canopy size of removed trees

(b) Tree to be selected from Replacement Species List (*No cross reference supplied*)

(c) Same species to be selected unless the Director Planning **unilaterally decides** on a more appropriate tree.

(d) No tree listed in 99.013 may be a replacement

**(2) Replacement and Maintenance**

*Reference is made to ANSI A300 (Part 6) (Is this to be an appendix to the ordinance, if not how would anyone know the provisions?) The property owner is responsible for purchasing, planting and maintaining the trees. (Who is going to check on them?) There should be a cross reference to the appropriate section on maintenance.*

(2)(a) Trees to be maintained for 3 years. The property owner is responsible for replacing trees that do not survive, and maintaining these for another 3 years. (*Who checks and what happens if the owner chops them down after 6 years?*)

(b) Watering requirements (*again who is going to check?*)

(c) Postponement of replacements for 9 months (who is going to check?)

**(3) Fees in lieu of Replanting** where existing canopy or site restrictions apply money can be paid to county.

(a) \$3,345 to be paid to county to replace trees on public or private property in the vicinity of subject property or other county owned or private property or to support the County's urban forestry management program. (*This just encourages big developers to pay cash to develop to the max. A good example of that is what happened at Cardinal court, Menlo Park where the developer destroyed a huge oak under cover of darkness and was supposed to pay for replacements* )

#### **SECTION 99.014. TREE PLAN REQUIREMENTS WITH DEVELOPMENT APPLICATION**

(1) Development applicants shall submit an Existing Tree Plan and a Tree Protection Plan where development could impact trees. If a survey is required prepared by licensed surveyor or civil engineer this must be consistent with Tree Plan, drawn to scale and prepared by a certified arborist to establish protection measures for demolition or development that must be implemented. (*Go to any development in San Mateo County and just see the inadequate protection of existing trees. A few years ago the developer of Creekside property at the bottom of Snecker court destroyed every oak on the property and nothing was done about it by the county*)

(2) Any damage to a protected tree shall require immediate attention of certified arborist to determine if replacement tree is required. (*No requirement for protecting trees by fencing in this section. Plus, under this provision a developer could damage a large oak and replace with a sapling or pay a fine. **This is not adequate protection.** Nor is there any protection for neighboring parcels*)

(3) Field Visit. (*long, compound sentence and yet another instance of Planning Director **unilateral action** There is also no provision for neighborhood complaints. There have been widespread complaints about one developer in North Fair Oaks who has been decimating trees and damaging neighboring properties. This needs to be stopped. Again there is cross referencing to 99.010.*)

#### **SECTION 99.015. CONDITIONS OF APPROVAL**

Yet again **unilateral action** by Planning Director in imposing conditions to ensure compliance with no appeal rights for neighbors and no measures to monitor or compel performance.

(1) Measures to control erosion, soil and water retention and diversion or control of increased flow of surface waters. (*This seems to ignore the existing ordinances related to storm water not being increased by any development – which has also been totally ignored by the Planning Dept. This is extremely important in hillside development*)

(2) Measures to ensure action will not have adverse environment effects relating to sensitive habitats protected wildlife, shade, noise, wind protection, air pollution and historic features. (*This has been, and is totally ignored throughout Stanford Weekend Acres where the environment has been destroyed by stupid development that has resulted in bank collapse, flooding, and elimination of almost all wildlife. There is no mechanism for enforcement and complaints have been ignored*)

(3) Other conditions as necessary per 99.012 (*another cross ref. and again using **unilateral action** by Planning Director.*)

(4) Requires no adverse effects on erosion, soil retention, water retention and diversion of surface water. (*Who decides this? What is required to show this and this seems also to conflict with or be covered by the groundwater ordinances. This is a useless provision unless there is enforcement and some standards*)

(5) Tree removal is not in a sensitive habitat. *(This has been totally ignored and is unlikely to have any impact since there is no enforcement)*

#### **SECTION 99.016 EXPIRATION OF PERMIT**

Permit expires in one year. *(Is this redundant since all Planning permits expire in one year? An extension requires a request and fees. If this is processed with another permit with a later expiration date, the later expiration date may apply.)*

#### **SECTION 99.017**

Applicant or any other person may appeal. However, expedited and pruning permits may not be appealed. An appeal requires statement as to how the appellant is aggrieved or adversely affected. *This implies that to appeal the appellant has to have individual damage, and not just because the damage is harmful to the greater environment.*

(1) Appeal is to Planning Commission and paying an appeal fee within 10 business days of issuance or denial of permit. *(How is this decision made public? In the past interested parties have sometimes not been made aware of the decision)*

The Planning Commission shall hear the appeal in a timely manner *(??? Like what)* and render a decision on the appeal within 15 calendar days of the public hearing and shall be reported to the affect parties *(How? In the past there have been problems with appellants getting timely notice preventing an appeal to the BOS)*

(2) The above appeal can be appealed to the BOS by filing a written notice and paying **yet another fee** within 10 business days of the Planning Commission's decision. The BOS shall then hear the appeal in a timely manner *(???)* and render a decision with 15 calendar days following a hearing. This decision shall be final and will be reported to affected parties.

#### **SECTION 99.018 PERMIT POSTING DURING TREE REMOVAL**

All permits shall be posted on the site at all times immediately before and during tree removal or pruning. It shall be posted in a conspicuous place at eye level at a point nearest the street. *(Said posting is often hidden)*

#### **SECTION 99.019 PERMISSION TO ENTER PROPOSED PERMIT AREA**

Filing for a permit grants permission for County personnel to enter subject area during normal working hours. This right of entry lasts for the 3 year maintenance period of a replacement tree. *(Notice should be given to the property owner when this is to occur. Nobody wants people wandering around their property)*

### **CHAPTER 5 EMERGENCIES**

#### **SECTION 99.021 EMERGENCIES**

*Again the Planning Director makes a **unilateral decision** as to whether an emergency exists.*

A permit is not required for pruning or removal when it presents an imminent danger to life, property, or essential transportation systems or a tree risk rating of High or Extreme is present as calculated by an ISA Tree Risk Assessment Qualified Arborist. In such an event an owner or applicant *(??)* shall be responsible for:

(1) Notifying Planning Director during business hours, or the sheriff after business hours. *(How?)*

(2) Photo documentation shall be taken if safe to do so and within 72 hours after emergency action taken shall submit photo documentation and written verification prepared by a TRAQ certified arborist to the Planning Director confirming emergency, insurance claim and other relevant information. *If no documentation supplied and the Planning Director **unilaterally** determines no such emergency exists this will be treated as a violation.*

(3) Replacement Trees: *Cross references to 99.012* for required replacements.

### **CHAPTER 6 HERITAGE TREE DESIGNATION**

#### **SECTION 99.022. APPLICATION AND DESIGNATION OF HERITAGE TREES**

Upon nomination by any person and with the written consent of the property owner(s) the BOS may designate a tree or trees as Heritage. Plants listed by the California Invasive Plant Council as invasive species are not eligible. *(Give a reference for this site)*

(1) Application for designation requires the following:

(1)(a) Fill out a form from Dept. signed by property owner. (Why was "Planning" omitted? I think this is duplicated earlier in document)

(1)(b) Photographs required

(1)(c) Supporting documentation

(1)(d) Any other the Planning Director requires

(1)(e) A fee as adopted by the BOS

On receipt of the application the Director of Planning may inspect the tree and notice the surrounding property owners within 300 ft. of the lot containing the tree.

*(This section makes no sense and is utterly offensive. It should be perfectly evident what constitutes a heritage tree. No property owner other than a dedicated environmentalist would willingly categorize their tree as heritage, which would restrict their rights and even cost them money to do so. **The county should be rewarding people who take the trouble and expense of designating their tree as heritage, instead it is penalizing them.***

(2) Action on designation shall be made by the BOS on finding that the tree is:

(2)(a) An outstanding specimen of a desirable species *(Nobody on the present BOS has the expertise to make such a judgment)*

(2)(b) It is one of the largest or oldest trees in unincorporated San Mateo County *(This makes no sense and how is this assessed and by whom since no one on the present BOS has the expertise?)*

(2)(c) It possesses exception and unique form, size, age, horticultural, aesthetic, biological, cultural, location, and/or historical significance. *(Who is to judge this, and based on what plus same comment as (2)(b))*

(2)(d) It meets the definition of Heritage Tree as in Section 99.002 *(another cross reference)* and possesses values already stated in (2)(c) plus is irreplaceable and expected to have a continuing contribution to the community. *(What is meant by "continuing contribution" and what if this factor is missing?)*

After BOS approves, the Director of Planning shall notify owners in writing and a listing of all heritage trees and their locations shall be kept by the Planning Dept. Once designated the tree shall be considered protected and subject to provisions of this ordinance.

(3) Following approval it shall be recorded as a deed restriction and covenant.

(4) Removal of restriction: The heritage designation shall be removed if the tree dies or is removed on finding that this is appropriate and necessary to delist because of lack of structural capacity, declining vigor, disease causing mortality, death, or hazard determined by the County Arborist the county shall record a document extinguishing the covenant. *(Who is supposed to pay for this?)*

## **CHAPTER 7. VIOLATIONS**

### **SECTION 99.023 CEASE AND DESIST; REMEDIATION OF UNLAWFUL TREE REMOVAL**

If any pruning or removal activity found without a valid permit the Director of Planning, a Building official, a Code Compliance officer of Sheriff Deputy can issue a Cease and Desist order. No further grading, construction, tree pruning, or removal may be done except upon approval by the Planning Director. Plus conditions may be imposed to protect health, safety, and welfare of public, including corrective work to be done within designated time or as in Zoning Regs VI. *(more specific citation needed)*

If Planning Director finds 1 or more protected trees have been removed, effectively removed, or pruned with permits the following additions will be imposed:

(1) Violation during Development of a property

(1)(a) A STOP ORDER may be issued on all construction until following requirements met:

(1)(b) Owner to submit mitigation plan for review and approval by Director of Planning. This to include:

(1) New/revised arborist report

- (2) Measures for protection of any remaining trees
- (3) Replacement plan for each tree removed/effectively removed
- (4) Size, quantity and species of replacement(s) to be discretion of Director of Planning and shall be commensurate with the side and species of tree(s) removed. *(How is this to be effected if the removed tree is 100 feet high?)*
- (5) Replacement to be on parcel **or at a location approved by Director of Planning.** *(This doesn't cure the problem as was apparent in the development of Cardinal Court: the developer removed the tree under cover of darkness and then paid for trees in another location. This just encourages bad developer behavior)*

- (1)(c) Stop order in effect and no construction until Planning Director determines the mitigation plan has been approved and fully implemented including
  - (2) A violation in absence of development or while a building permit etc. approval is pending:
    - (2)(a) Director of Planning may issue a temporary moratorium on development up to 18 months from violation to give county opportunity to study and determine appropriate mitigation measures for the tree removal.
    - (2)(b) Mitigation plan to be submitted to property owner and reviewed by Director of Planning.
    - (2)(c) Moratorium to remain and no construction allowed until Director of Planning determines that the mitigation plan approved and implemented up to (i) installation of all replacement planting (ii) payment of all fees per Section 99.024: (iii)submittal of non revocable bond payable to County for long term maintenance of replacement tree(s)

**SECTION 99.024. PENALTIES FOR INFRACTIONS**

Table 4.1 *(What exactly is DSH?)* from \$7,500 to \$22,5,000 imposed on both owner of property and person(s) doing tree removal/pruning. Each tree to be separate I fraction and fine to be cumulative. The Planning Director can reduce fines only in extraordinary circumstances.

**SECTION 99.025 CUMULATIVE REMEDIES**

Can be cumulative or separate and in addition to other civil, criminal or administrative remedies.

**SECTION 99.26 RECORDATION OF NOTICE OF VIOLATION**

A violation may be recorded and Director of Planning shall notify by certified mail the owner and any other known party responsible. *(What about Contractors' License Board?)*

To disagree, proof may be submitted to Director of Planning with documentation that permit not required. If Director of Planning determines that permit required, property owner and/or responsible party shall apply for the necessary permit within a specified time determined by Planning Director. *(So it is easier for a developer to seek after the fact "forgiveness" rather than request permission)*

**SECTION 99.027 NOTICE OF EXPUNGEMENT**

To be recorded when conditions met (typo a "one" is missing)

- (1) The Planning Director determines Removal/Pruning permit not required or
- (2) All conditions have been met
- (3) All fines have been paid

The meeting of long term conditions may be guaranteed by a surety to run with the land and term shall not be imposed as a demand for meeting expungement requirement *(This is less than clear)*

**From:** [Janet Davis](#)  
**To:** [Planning Commission](#)  
**Cc:** [Steve Monowitz](#)  
**Subject:** Proposed Tree Ordinance  
**Date:** Monday, September 9, 2024 11:31:39 AM

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I previously objected to the final arbiter being the Planning Director, and suggested that the tree protection process should be the responsibility of the County Resource Management Division . Steve Monowitz replied to my comment saying that he had the ability to delegate that responsibility.

**That is exactly my fear.** Too often in the past major planning decisions have been delegated to counter staff.

I read the comments submitted by Ron Snow and agree with many of his points. As it stands, this unduly lengthy and in many places faulty ordinance is definitely not ready for prime time. It needs several revisions as noted.

**From:** [Lennie Roberts](#)  
**To:** [Planning Commission](#)  
**Cc:** [Kellyx Nelson](#); [Steve Monowitz](#)  
**Subject:** Item #4 on 9-11-24 Agenda: Tree Ordinance Update  
**Date:** Tuesday, September 10, 2024 12:42:00 PM

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CAUTION: This email originated from outside of San Mateo County. Unless you recognize the sender's email address and know the content is safe, do not click links, open attachments or reply.

Dear Chair Ketcham and Commissioners,

On behalf of Green Foothills, I request that you continue the Tree Ordinance Update in order for the SMRCD to provide comments.

They have not had sufficient time to review/comment during this last step of a very long process.

Thanks for all you do to ensure that the voice of the public is included in planning and permitting items. This is why we have a Planning Commission!

All best,

Lennie